

CHAPTER 7: SHORELINE MODIFICATION ACTIVITIES

7.01 General shoreline modification:

Shoreline modification activities are those actions that modify the physical configuration or qualities of the shoreline area. Typically, such activities are related to construction of a physical element such as a dike, breakwater, dredged basin, landfill, etc., but they can include other actions such as clearing, grading, application of chemicals, etc. Shoreline modification activities usually are undertaken in support of or in preparation for a shoreline "use". For example, dredging (activity) to allow for a marina (boating facility use). A single use may require several different shoreline modification activities. For example, a marina and recreational development may involve a breakwater, dredging, clearing and grading, and land fill.

7.02 Shoreline modification policies:

These actions include all structural and non-structural means to reduce impacts due to flooding, erosion and accretion. Specific structural and non-structural means included in this use activity are rip-rap, bulkheads, bank stabilization and other means of shoreline protection.

The following provisions pertain to all shoreline modification, actions, and improvements contained in Chapter 7. Flood control projects or programs which involve more than one property or which have the primary function of flood management of a hydrologic system must also conform to sections 6.13, 6.14 and 6.15, Flood Control Management.

.01 Rip-rapping and other bank stabilization measures should be located, designed and constructed primarily as a means to prevent damage to existing development. New developments should be located and designed to prevent or minimize the need for shoreline stabilization measures or flood protection works.

.02 Natural stabilization and protection works such as protective berms or vegetation, which are more compatible with natural on-going shore processes, should be encouraged over structural stabilization and protection works.

.03 Natural features such as snags, stumps or uprooted trees which support fish and other aquatic systems, and which do not unreasonably interfere with the navigational channel or threaten agricultural land and existing structures or otherwise reasonably interfere with the public's use of the shoreline should be left undisturbed.

.04 Shoreline stabilization or flood control works should allow for channel migration without reducing the volume and storage capacity of rivers, associated wetlands or floodplains.

.05 Use of car bodies, scrap building materials, asphalt from street/road work, or any discarded pieces of equipment or appliances for shoreline stabilization should be prohibited.

.06 Natural methods (bioengineering) should be the preferred "best practices" choice when considering shoreline stabilization.

7.03 General regulations:

a. All applicable federal and state permits shall be obtained and complied with in the construction and operation of shoreline stabilization and flood protection works.

b. Upon project completion, disturbed shoreline areas shall be restored as much as possible with native bank vegetation to prevent erosion/run-off and degradation of the shoreline.

c. Noxious weeds will be controlled. All fertilizers, pesticides, herbicides, and other chemicals will be used in accordance with best management practices and current labeling provided by the manufacturer.

d. All flood protection measures shall be placed land-ward of the natural floodway boundary, including any associated biological wetlands.

- e. River and stream channel direction modification and realignment will not be permitted unless essential to uses consistent with this management program.
- f. The use of solid waste, junk or abandoned automobiles, asphalt or any building demolition debris shall be prohibited.

7.04 BREAKWATERS

Breakwaters are protective structures built off shore to reduce wave actions or protect, moorages, marinas, beaches and bluffs. Breakwaters may be fixed, open-pile or floating.

7.05 Breakwaters policies:

- .01 Professional design by a Washington State registered or licensed engineer should be performed due to the complexity of modifying water movement and littoral drift systems that extend well beyond the project boundaries.
- .02 Breakwaters should be located, designed, and constructed primarily to prevent damage to existing developments. New development requiring such should be discouraged.
- .03 Notice of proposed construction of breakwaters should be made available to affected shoreline landowners.
- .04 Floating breakwaters should be used in place of solid, rubble mound types wherever they can withstand anticipated wave action in order to maintain sand movement and protect fish and aquatic habitat.

7.06 General regulations:

- a. The use of solid waste, junk or abandoned automobiles, asphalt or any building demolition debris shall be prohibited.
- b. Any breakwaters that would unreasonably adversely affect other shoreline landowners shall be prohibited.
- c. Solid breakwaters will not be permitted unless it can be shown they will have no adverse effect on the aquatic biology and shore processes.

.01 Natural and conservancy:

- a. Breakwaters shall not be permitted.

7.07 BULKHEADS

Bulkheads are walls usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil by erosion and/or wave action. They are used to protect bluffs by retaining soil at the toe of the slope or by protecting the toe from erosion and undercutting. They are typically constructed of poured-in-place precast concrete, steel or aluminum sheet piling, wood or wood and structural steel combinations. Bulkheads are massive structures resting on the surface. Uses and activities related to bulkheads which are identified as separate use activities in this program, such as Flood Control Management, Landfill, Residential Development, Commercial Development and Industry, are subject to the policies and regulations for those uses in addition to the standards for bulkheads established in section 7.09.

Because of the potential impacts to complex geo-hydraulic littoral drift systems and/or damage to other shoreline properties and features, professional design and engineering is strongly encouraged.

7.08 Bulkhead policies:

- .01 Defense works of natural materials such as protective berms, beach enhancement or vegetative stabilization are strongly preferred over structural defense works, of materials such as steel, wood, or concrete, because the former have less adverse and cumulative impacts on shore features and

habitats. Proposals for structural solutions including bulkheads should demonstrate that natural methods are unfeasible or have failed.

.02 Bulkheads should be located, designed, and constructed primarily to prevent damage to existing development. Bulkheads should be discouraged in conjunction with new developments.

.03 Shoreline uses should be located in a manner such that the need for bulkheads is minimized in the future.

.04 Bulkheads should not be located on feeder bluffs, except when the area is already developed and is subjected to shoreline modification.

.05 Bulkheads should be sited and designed to prevent bank erosion and not as a solution for much more intense problems such as slope failure, sloughing, landslides, etc. More intense problems should be resolved in compliance with section 7.22 et seq. on Revetments.

.06 Cumulative effects of bulkheads on shorelines of the state should be evaluated.

7.09 General regulations:

a. Bulkhead design/construction shall conform to all policies and regulations of the Washington State Department of Fish and Wildlife, Stevens County, other applicable agencies and this program.

b. Bulkheads may be allowed only when evidence is presented which demonstrates that one of the following conditions exist:

i. Serious wave erosion threatens an established use or existing building(s) on upland property;

ii. Bulkheads are necessary to the operation and location of "water-dependent" and "water-related" activities consistent with the Act and this program, provided that all alternatives have proven infeasible (i.e. use relocation, use design, non-structural shore stabilization options) and that such bulkheads meet other policies and regulations of these sections; or

iii. Proposals for bulkheads must first demonstrate that use of natural materials and processes and non-structural solutions to bank stabilization are unworkable in protecting existing development.

c. The construction of a bulkhead for the primary purpose of retaining a landfill water-ward of the OHWM shall not be permitted, unless it is proposed in conjunction with a water-dependent or public use that is within the intent of the Act and this program.

d. Bulkheads are to be permitted only where local physical conditions such as foundation bearing material, surface and sub-surface drainage are suitable for such alterations.

e. Bulkheads shall be designed for the minimum dimensions necessary to adequately protect the development.

f. Bulkheads shall be designed to permit the passage of surface or ground water without causing ponding or saturation of retained soil/materials.

g. Where an existing bulkhead is being replaced, it shall be constructed no further water-ward of the existing bulkhead than is necessary for construction of new footings.

h. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional rip-rap.

i. Materials used in bulkhead construction shall meet the following standards:

i. Bulkheads shall utilize stable, non-erodible, homogeneous materials such as concrete, wood, rock rip-rap or other suitable materials which will accomplish the desired end with the maximum preservation of natural shoreline characteristics.

ii. Beach materials shall not be used to fill behind bulkheads, except for clean dredged spoil from a permitted off site dredge and fill operation.

j. Stairs or other permitted structures may be built into a bulkhead, but shall not extend water-ward of the OHWM.

- k. Bulkheads are prohibited for any purpose that will cause significant adverse erosion or beach starvation.
- l. Bulkheads shall be located land-ward of the Ordinary High Water Mark (OHWM) and generally parallel to the natural shoreline. In addition:
 - i. Bulkheads on drift-ways and on lakes shores subject to erosion shall be located no more than one (1) foot water-ward of the bank toe and shall parallel the natural shoreline.
 - ii. On bluff or bank shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the bank as possible and in no case should be more than three (3) feet from the toe of the natural bank.
 - iii. A bulkhead for a permitted landfill shall be located at the toe of the fill.
 - iv. Any proposed bulkheads shall tie in flush with existing bulkheads on adjoining properties, unless the adjoining bulkheads extend water-ward of the OHWM. If only one of the adjacent properties contain an existing bulkhead any proposed bulkhead shall tie in flush with the adjacent bulkhead at or land-ward of the Ordinary High Water Mark (OHWM).
- m. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.
- n. Gabions (wire mesh filled with concrete or rocks) shall not be used in bulkhead construction where alternatives more consistent with this program are feasible, because of their limited durability and the potential hazard to shore users and the shoreline environment.

.01 Natural:

Bulkheads are not permitted.

7.10 DIKES AND LEVEES

Dikes are man-made earthen embankments for the purpose of flood control. Levees are larger dikes or embankments, often having an access road along the top, also designed for flood control. (Also see Flood Control Management 6.13,14&15)

7.11 Dikes and levees policies:

- .01 Dikes and levees should be located, designed, constructed, and maintained so that they will not cause significant damage to adjacent properties or valuable resources, and so that the physical integrity of the shore processes is maintained.
- .02 Dikes and levees should be compatible with the multiple use of the floodway and associated resources, such as wildlife habitat, water quality, recreational resources and public access.

7.12 General regulations:

- a. Dikes and levees shall be designed, constructed and maintained in accordance with an approved hydraulic permit and in consideration of requirements and recommendations of local technical/resource agencies.
- b. Development that requires extensive use of dikes and levees for protection shall not be permitted.
- c. Dikes or levees that are not associated with an acceptable use of this Shoreline Master Program shall not be permitted.
- d. Dikes or levees shall not be placed in the floodway, except for those deflectors necessary for protection of bridges and roads.
- e. Dikes and levees shall be vegetated with native vegetation.

.01 Natural and Conservancy:

Dikes and levees are not permitted

7.13 DREDGING AND DREDGE MATERIAL DISPOSAL

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, river, or lake and the associated shorelines or wetlands. Dredging is normally done for specific purposes or uses such as constructing and maintaining canals, navigation channels, turning basins, marinas, the installation of submarine pipelines or cable crossings, or dike or drainage system repair and maintenance. Dredging is also used to mine for aggregates such as sand and gravel. Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the by-products of dredging. Dredge material disposal on land is also subject to the landfill policies and regulations of this program.

7.14 Dredging and dredge disposal policies:

.01 Dredging and dredge material disposal should be located and conducted in a manner which minimizes damage to existing ecological values and natural resources of the area to be dredged and the disposal site.

.02 Dredging operations should be planned and conducted to minimize interference with navigation and adverse impacts to other shoreline uses, properties and values.

.03 When dredge material has suitable organic and physical properties, dredging operations should be encouraged to recycle dredged material for beneficial use in wildlife habitat creation, aggregate or clean cover material at a landfill (where appropriate).

7.15 General regulations:

Dredging in all Environments shall be done in accordance with the requirements of applicable agencies and this program and the following regulations shall be enforced to the extent possible within this program's authority.

- a. In evaluating permit applications for any dredging project, the adverse effects of the initial dredging, subsequent maintenance dredging and dredge disposal that will be necessary should be considered. Dredging and dredge disposal should only be permitted where the proposed action will not:
 - i. Result in significant and/or on going damage to water quality, fish and other essential biological elements; or
 - ii. Adversely alter natural drainage and circulation patterns, currents, rivers or significantly reduce flood water capacities.
- b. Proposals for dredging and dredge disposal shall include all feasible mitigating measures to protect aquatic habitats and to minimize adverse impacts.
- c. Permitted dredging in biological wetlands shall be done in accordance with all applicable county, state and federal standards. (See wetland section 4.05)
- d. Dredging below the ordinary high water mark shall only occur:
 - i. For navigation or navigational access;
 - ii. In conjunction with a water-dependent use of water bodies or adjacent shorelands;
 - iii. As part of an approved habitat improvement project;
 - iv. To improve water flow or water quality, provided that all dredged material shall be contained and managed so as to prevent it from reentering the water;
 - v. For mining and/or mineral extraction, as provided for in the Mining sections;
 - vi. In conjunction with a bridge, navigational structure or waste-water treatment facility for which there is a documented public need and where other feasible sites or routes do not exist.

- e. Containment dikes and adequate settling basins shall be built and maintained to minimize surface runoff.
- f. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainage ways.
- g. Disposal runoff water should be controlled so as to enter a waterway through grassy swales or other treatment features at a location that maximizes circulation and flushing.
- h. Revegetation of land disposal sites shall occur as soon as possible in order to retard wind and water erosion and to restore the wildlife habitat value of the site.
- i. Dredging for the primary purpose of obtaining material for landfill shall not be permitted.
- j. Depositing of dredge materials in water areas shall be allowed only for wildlife habitat improvement or to correct problems of material distribution adversely affecting fishing resources.
- k. Depositing of dredge materials shall not be permitted in wetlands, significant plant communities and/or public access areas.

.01 Natural and Conservancy:

Dredging activities are not permitted, except in conjunction with approved shore restoration or an enhancement plan that is consistent with the Act and this program.

7.16 LANDFILL

Fill is the placement of soil, sand, rock, gravel or the addition to existing sediment or other material (excluding solid waste) to create new land along the shoreline below the ordinary high water mark, or on upland areas in order to raise the elevation. Sanitary landfills and solid waste facilities are addressed under the Utilities sections of this program.

7.17 Landfill policies:

- .01 Landfills water-ward of the ordinary high water mark should be allowed only when necessary to facilitate water-dependent and/or public uses that are consistent with the Act and this program.
- .02 Shoreline fills should be designed and located so that there will be no significant damage to existing ecological systems or natural resources, and no alteration of local currents, surface water drainage, or flood waters which would result in a hazard to adjacent life, property and natural resource systems.
- .03 Pile or pier supported structures should be utilized whenever feasible in preference to landfills. Landfills for approved road development in floodways or wetlands should be permitted only if pile or pier supports are proven infeasible.

7.18 General regulations:

- a. Landfills shall be designed, constructed and maintained to prevent, minimize and control all material movement, erosion and sedimentation within the affected areas. Perimeters of permitted landfill projects shall be designed and constructed with silt curtains, vegetation, retaining walls, or other mechanisms and appropriately sloped to prevent erosion and sedimentation both during initial landfill activities and afterwards. Such containment practices shall occur during the first growing season following completion of the landfill.
- b. Landfills shall be the minimum necessary to achieve the intended use and shall be permitted only when tied to a specific approved development proposal that is permitted by this program.
- c. Where existing public access is reduced, it shall be replaced in conjunction with the proposed project.
- d. The timing of landfill construction shall be designed to minimize damage to water quality and aquatic life.

- e. Landfills water-ward of the ordinary high water mark shall not be permitted, except when necessary to facilitate water-dependent and/or public uses which are consistent with this program.
- f. Speculative landfills or landfills which are not associated with a specific project consistent with the Act and this program are not permitted.
- g. Landfills which result in significant damage to water quality, fish or wildlife habitat, or which adversely alter natural drainage or circulation patterns, currents, or significantly reduce flood water capacities are prohibited.
- h. Landfill materials consisting of polluted dredge spoils and sanitary landfill materials are prohibited.

.01 Natural and Conservancy:

Landfill activities are not permitted.

7.19 PIERS AND DOCKS

Piers and docks are structures that abut the shoreline and are used as a landing or moorage place for commercial and pleasure craft. Piers are built on fixed platforms above the water, while docks float upon the water. Recreation floats are anchored off-shore platforms used for water-dependent recreational activities such as swimming and diving. Piers and docks are utilized for commercial, industrial and recreational purposes. Often they serve mixed uses. Because of this, regulations concerning specific uses that may employ a pier or dock will be located in that specific section. For instance, piers and docks containing more than ten moorage spaces are considered marinas and such policies and regulations are contained in the Boating Facilities sections.

7.20 PIERS AND DOCKS POLICIES

- .01 Multiple use and expansion of existing piers, wharfs and docks which are consistent with this program should be encouraged over the proliferation of new facilities. Joint use facilities are preferred over new single use piers, docks and floats.
- .02 Piers, docks, floats and mooring buoys should be designed to cause minimum interference with navigable waters and the public's use of the shoreline.
- .03 Piers, floats and docks should be sited and designed to minimize possible adverse environmental impacts, including potential impacts on littoral drift, sand movement, water circulation and quality and fish and wildlife habitat.
- .04 Use of natural materials in pier and dock construction should be encouraged. When plastics and other non- biodegradable materials are used, precautions should be taken to ensure their containment.

7.21 General regulations:

- a. All piers and docks shall be constructed and maintained in a safe condition. Abandoned or unsafe docks and piers shall be removed or repaired promptly by the owner.
- b. Piles, floats or other structural members in direct contact with water shall not be treated or coated with biocides such as paint, pentachlorophenol, arsenate compounds, creosote or other preservation treatment.
- c. No over water field applications of paint, preservation treatment or other chemical compounds shall be permitted except in accordance with this program.
- d. Pilings employed in piers or any other structure shall have a minimum vertical clearance of one (1) foot above extreme high water.
- e. All hotels, motels and multi-family residences proposing to provide moorage facilities shall construct a single, joint-use moorage facility provided that the County may authorize more than one

joint-use moorage facility if a single facility would be inappropriate or undesirable given the specific conditions of the site.

f. Proposals for joint-use community piers and docks shall demonstrate and document that adequate maintenance of the structure and the associated upland area will be provided by identified responsible parties.

g. Recreational floats shall be located as close to the shore as possible, and be constructed/maintained in accordance with the Stevens County Boating Ordinance.

h. Substantial development permits for docks or piers serving single commercial or industrial enterprises shall not be granted until any adjacent commercial and/or industrial enterprises have been contacted regarding their water access needs and a determination is made regarding the cooperative or joint-use of a single joint-use moorage facility.

i. Any storage of boat fueling facilities shall be located land-ward of the ordinary high water mark.

j. For lots existing at the time this program is adopted, no more than one private, non-commercial dock is permitted per platted shoreline lot. (Also see (g) for floats)

k. On river shorelines, only docks shall be permitted. Such facilities shall be securely anchored to piling to allow for changes in river level and shall be able to withstand 100 year frequency flooding or be seasonably removable.

l. Maximum length of a pier or dock shall be the minimum necessary to accomplish necessary recreational uses (swimming, fishing, etc.) and moorage and/or water depth.

m. Docks shall not exceed three (3) feet in height above the ordinary high water mark on the land-ward side.

n. Docks shall be setback a minimum of ten (10) feet from side property lines, except that community piers and docks may be located adjacent to or upon a side property line when mutually agreed to by contract/covenant between the owners of the adjoining property. A copy of the contract or covenant should be recorded with the County Auditor and submitted with the application for permit or exemption.

o. Overhead or underwater wiring or plumbing is not permitted.

p. Bulk storage (non-portable storage in fixed tanks) of gasoline, oil and other petroleum products for any use or purpose is prohibited on any dock or pier.

.01 Natural:

a. Pier and dock development are not permitted in the natural environment, except for public interpretive or nature observation facilities that are low intensity in nature and do not substantially change the character of the natural environment.

7.22 REVETMENTS

A revetment is a sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against waves, wakes, currents, or weather. Revetments are most commonly built of randomly placed boulders (rip-rap), but may also be built of sand-cement bags, paving or building blocks, gabions (rock filled wire baskets), or other systems and materials. The principal features of a revetment, regardless of type, are:

- a. Heavy armor layer;
- b. Filter layer; and
- c. Toe protection.

This section deals specifically with the modification activity of revetments. For additional policies, see sections on Shoreline Modification found in this program.

7.23 Revetment policies:

.01 The use of armored structural revetments should be limited to situations where it is determined that non-structural solutions such as setbacks or buffers will not provide sufficient shoreline stabilization.

.02 If through construction and/or maintenance of revetments loss of riparian vegetation and habitat occurs, mitigation should be provided.

.03 The County may require professional design of the proposed revetment if sufficient uncertainties arise, such as:

- a. Inadequate data on local conditions;
- b. Inadequate data on stream flow, velocity and/or flood capacity;
- c. Uncertain effects on adjacent properties.

7.24 General regulations:

a. Revetments shall be constructed in a manner that does not reduce water quality or fish/wildlife habitat.

b. Bank revetments where permitted shall be located at the extreme edge or bank of the shoreline.

c. The toe reinforcement or protection of a revetment must be adequate to prevent a collapse of the system from river scouring or wave action.

.01 Natural and Conservancy

Revetments are not permitted.

CHAPTER 8: ADMINISTRATION

8.01 General:

The administrative system is designed to define and assign responsibilities for implementation of the Stevens County Master Program and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this Master Program are treated in a fair and equitable manner.

8.02 Administrator

.01 Subject to provisions in section 8.04.01 (a) the Stevens County Planning Director and/or his/her designee, hereinafter known as the Administrator, is vested with:

- a. Overall administrative responsibility of this Master Program;
- b. Authority to approve, approve with conditions, or deny shoreline Substantial Development, Conditional Use and/or Variance Permits and permit revisions in accordance with the policies and provisions of this Master Program.
- c. Authority to grant or deny statements of exemption from Shoreline Substantial Development Permits;
- d. Authority to determine compliance with RCW 43.21C, State Environmental Policy Act;
- e. Administrative authority as granted by the Board of Stevens County Commissioners; and
- f. The authority to require any applicant granted a shoreline permit to post a bond or other acceptable security with the County conditioned to assure that the applicant and/or his/her successors in interest shall adhere to the approved plans and all conditions attached to the applicable permit. Such bonds or securities should be no less than one-hundred (100%) percent of the estimated project costs, or as determined by the County and approved as to form by the County Prosecuting Attorney.

g. Authority to grant Administrative Adjustments pursuant to Section 8.18

8.03 Stevens County Planning Commission:

The Stevens County Planning Commission reports and makes recommendations to the Stevens County Board of County Commissioners (BOCC) pursuant to RCW 36.70.510

8.04 Board of Stevens County Commissioners (BOCC):

The BOCC is vested with authority to conduct special public hearings and make all necessary decisions based on the intent of the Act and this Master Program.

8.05 County Tax Assessor:

As provided for in RCW 90.58.290, the restrictions imposed upon the use of real property through the implementation of the policies and regulations of the ACT and this Master Program shall be duly considered by the County Assessor and the County Board of Equalization in establishing the fair market value of such properties.

8.06 Applicability to substantial development:

Any person wishing to undertake shoreline development, as defined by RCW 90.58.030, shall apply to the Administrator for either a Substantial Development Permit or a Letter of Exemption. If the proposal is exempt, then the Administrator shall issue a Letter of Exemption.

Exemption from substantial development permit requirements does not constitute exemption from the policies and use regulations of the Shoreline Management Act, the provisions of this master program, and other applicable county, state or federal permit requirements.

8.07 Exemptions:

RCW 90.58.030(3)(e) deletes the following actions from the statutory definition of "substantial development."

Pursuant to WAC 173-14-040, the following actions are exempt from the requirement for a Shoreline Substantial Development Permit, but may require a Conditional Use or Variance permit.

- a. Any development of which the total cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state;
- b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment.
- c. Construction of the normal protective bulkhead common to single family residences. A "normal protective" bulkhead is constructed at or near the ordinary high water mark to protect a single family residence and is for protecting land from erosion, not for the purpose of creating land. Where an existing bulkhead is being replaced, it shall be constructed no further water-ward of the existing bulkhead than is necessary for construction of new footings.
- d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter.
- e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agriculture service roads and utilities on wetlands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feed lot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or

facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

f. Construction or modification of navigational aids such as channel markers and anchor buoys;

g. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter.

"Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located land-ward of the perimeter of a marsh, bog, or swamp. On a state-wide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; and grading which does not exceed two hundred fifty cubic yards (except to construct a conventional drainfield). Local circumstances may dictate additional interpretations of normal appurtenances that shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located land-ward of the ordinary high water mark;

h. Construction of a fresh water dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family residence, for which the cost or fair market value, whichever is higher, does not exceed ten-thousand dollars.

i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

j. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on the effective date of the 1975 amendatory act which were created, developed or utilized primarily as a part of an agricultural drainage or diking system; and

1. Any project with a certification from the governor pursuant to chapter 80.50 RCW.

2. Exemptions shall be construed narrowly,

3. Exempted developments authorized by local government shall be consistent with the policies and provisions of the act and the Stevens County Shoreline Management Master Program.

4. WDOE/Army Corps of Engineers notifications of dredging proposals will be reviewed by the Stevens County Planning Department to determine whether or not the activity is exempt from the requirement of a substantial development permit and to insure that the proposed action is consistent with the intent, policies and regulations of the Act and this program.

8.08 Letter of Exemption:

Whenever a development falls within the exemptions stated in WAC 173-14-040 and the development is subject to a U.S. Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899, or a section 404 permit under the Federal Water Pollution Control Act of 1972, the Administrator shall prepare a letter addressed to the applicant and the Department of Ecology, exempting the development from the substantial development permit requirements of Chapter 90.58 RCW.

8.09 Fees:

Application fees in amounts established by the Board of Stevens County Commissioners shall be paid to the County at the time of application.

8.10 Permit process:

When a completed application and associated information have been received by the Administrator, the Administrator shall mail notice of proposed project to all real property owners within three-hundred (300) feet of property being proposed for development and/or shall post notice in a conspicuous manner on the property upon which the project is to be constructed. The applicant is encouraged to provide the list of adjacent property owners. The Administrator shall also be responsible for delivering legal notice to the newspaper, to be published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the development is proposed. Further, the burden of proving that a proposed development is consistent with the intent of the Act, approval criteria and this master program's policies and regulations shall be the applicant's.

Public hearings may be required by the Administrator and/or the Board of County Commissioners for shoreline substantial development permits, conditional use permits, or variance permits. For the purpose of scheduling a public hearing, the date of receipt by the county of a complete application shall be considered the date of application. Any interested person may submit his/her written comments upon the application or notify the county of his/her desire to receive a copy of the action taken within thirty (30) days of the last date the notice is published as specified above. All persons who so submit their views shall be notified in a timely manner of the action taken upon the application.

8.11 Time requirements of permits:

The County Planning Department may issue permits with termination dates of up to five years. If a permit does not specify a termination date, the following requirements apply, consistent with WAC 173-14-060:

.01 Time Limit for Substantial Progress. Construction, or substantial progress toward completion, must begin within two years after approval of the permits.

.02 Extension for Substantial Progress. Stevens County may at its discretion, with prior notice to parties of record and the Department, extend the two-year time period for substantial progress for a reasonable time up to one additional year based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.

.03 Five Year Permit Authorization. If construction has not been completed within five years of the approval by the County, the County will review the permit and, upon showing of good cause, will extend the permit for one year, or terminate the permit. Prior to the County authorizing any permit extensions, it shall notify any parties of record or the Department. Note: Only one extension is permitted. Construction allowed by the revised permit that is not authorized under the original permit is undertaken at the applicant's own risk until the expiration of the appeals deadline.

8.12 Applicability of permits system to federal agencies:

The permit system shall be applied in the following manner to federal agencies on lands meeting the criteria of the Shoreline Management Act and the Department of Ecology for shorelines of the state:

01. Federal agencies shall not be required to obtain permits for developments undertaken by the federal government on lands owned in fee by the federal government, unless the federal government grants or reserves to the state or local government, substantial jurisdiction over activities on those lands.

02. The permit system shall apply to nonfederal activities constituting developments undertaken on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

03. The permit system shall apply to developments undertaken on lands not federally owned but under lease, easement, license, or other similar federal property rights short of fee ownership, to the federal government.

8.13 Permit revisions:

When an applicant seeks to revise a permit, the applicant shall provide detailed plans and text clearly describing the proposed changes in the permit.

.01 If the Administrator determines that the proposed changes are within the scope and intent of the original permit, he/she may approve a revision.

.02 "Within the scope and intent of the original permit" means all of the following:

- a. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten (10) percent from the provisions of the original permit, whichever is less;
- b. Ground area coverage and height of each structure may be increased a maximum of ten (10) percent from the provisions of the original permit;
- c. Additional separate structures may not exceed a total of two hundred fifty (250) square feet;
- d. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirement of the Shoreline Master Program except as authorized under the original permit;
- e. Additional landscaping is consistent with conditions (if any) attached to the original permit and with the Stevens County Shoreline Master Program;
- f. The use authorized pursuant to the original permit is not changed; and
- g. No substantial adverse environmental impacts will be caused by the project revision.

.03 If the sum of the revision and any previously approved revisions violate any provision of 8.13.02 above, the Administrator shall require that the applicant apply for a new permit in the manner provided for herein.

.04 Within eight days of the date of final action, the revision including the revised site plan, text and the final ruling on consistency with this section shall be filed with the Department of Ecology and the Attorney General, as well as the parties of record of the action.

.05 If the revision to the original permit involves a conditional use or variance which was conditioned by the Department of Ecology, the Administrator shall submit the revision to the Department of Ecology for their approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirements of this subsection. The Department of Ecology shall render and transmit to the Administrator and the applicant its final decision within fifteen days of the date of the Department of Ecology's receipt of the submittal from the director. The Administrator shall notify parties of record of the Department of Ecology's final decision.

.06 The revised permit is effective immediately upon final county action or, when appropriate, under WAC 173-14-064(5), by the Department of Ecology.

.07 Appeals shall be in accordance with RCW 90.58.180 and shall be filed within thirty days from the date of receipt of the action by the Department of Ecology or, when appropriate, the date the Department of Ecology's final decision is transmitted to the Administrator and the applicant. Appeals shall be based only upon contentions of noncompliance with the provision of WAC 173-14-064 (2) above. Construction undertaken pursuant to that portion of a revised permit not

authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

8.14 Non-conforming development standards:

"Nonconforming development" means a shoreline use or structure which was lawfully constructed or established prior to the effective date of the Act or this program, or amendments thereto, but which does not conform to present regulations or standards of the program or policies of the act.

.01 Nonconforming development may be continued provided that additions/modifications are not extended water-ward of the common line of existing development except where otherwise permitted in this program.

.02 A nonconforming structure may not be physically moved unless the new placement will be in conformance with this program as well as the Shoreline Management Act of 1971. A variance will be required where relocation increases the degree of nonconformity with regard to bulk and dimensional standards.

.03 A nonconforming development may be reconstructed to those configurations existing prior to the time the structure was damaged, so long as restoration is completed within two (2) years of the date of damage.

.04 If a nonconforming use is discontinued for a two-year period, any subsequent use must then be conforming;

.05 A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed; and

.06 An undeveloped lot, tract, parcel, site or division that was established prior to the effective date of this program, but that does not conform to the present lot standard may be developed so long as such development conforms to other requirements of this Shoreline Master Program and the Shoreline Management Act of 1971.

8.15 Variances and conditional uses permits:

The Shoreline Management Act states that Master Programs shall contain provisions covering conditional uses and variances. These provisions should be applied in a manner which, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.

8.16 Review criteria/findings for variance permits:

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the Shoreline Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Shoreline Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

.01 Variance permits should be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

.02 Variance permits for development that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), except within those areas designated by the Department of Ecology as marshes, bogs, or swamps pursuant to chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

- a. That the strict application of the bulk, dimensional or performance standards set forth in the Shoreline Master Program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the Shoreline Master Program;

- b. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size or natural features and the application of the Shoreline Master Program, and not, for example, from deed restrictions or the applicant's own actions;
 - c. That the design of the project is compatible with other permitted activities in the area and will not cause substantial adverse effects to adjacent properties of the shoreline environment; (See RCW 75.20.100, DOW Hydraulic Projects)
 - d. That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief; and
 - e. That the public interest will suffer no substantial detrimental effect.
- .03 Variance permits for development that will be located either water-ward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b), or within marshes, bogs, or swamps as designated by the Department of Ecology under chapter 173-22 WAC, may be authorized provided that the applicant can demonstrate all of the following:
- a. That the strict application of the bulk, dimensional or performance standards set forth in the Shoreline Master Program precludes a reasonable use of the property not otherwise prohibited by the Shoreline Master Program;
 - b. That the proposal is consistent with state regulations and criteria established under .02 b. through e. of this section; and
 - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
- .04 In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- .05 Requests for varying the use to which a shoreline area is to be put are not requests for variances, but rather requests for conditional uses. Such requests shall be evaluated using the criteria set forth in WAC 173-14-140.

8.17 Review criteria/findings for conditional use permits:

The purpose of a conditional use permit is to allow greater flexibility in varying the application of the use regulations of the Shoreline Master Program in a manner consistent with the policies of RCW 90.58.020: Provided, that conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the County or the Department of Ecology to prevent undesirable effects of the proposed use.

- .01 Uses which are classified or set forth in the Shoreline Master Program as conditional uses may be authorized provided the applicant can demonstrate all of the following:
- a. That the proposed use is consistent with the policies of RCW 90.58.020 and the policies of the Shoreline Master Program;
 - b. That the proposed use will not interfere with the normal public use of public shorelines;
 - c. That the proposed use of the site and design of the project is compatible with other permitted uses within the area;
 - d. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located;
 - e. That the public interest suffers no substantial detrimental effect;

f. The establishment, maintenance or operation of the use and/or associated structures applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of such proposed use, or injurious to property or improvements in the neighborhood or the general welfare of the County.

g. The proposed project will not, in itself, cause or create a need for continuous, subsequent work or maintenance that would, in the long term, be detrimental to the environment or injurious to adjacent properties.

.02 Other uses which are not classified or set forth in the Shoreline Master Program may be authorized as conditional uses provided the applicant can demonstrate, in addition to the criteria set forth in #1 above, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the Shoreline Master Program

.03 Uses which are specifically prohibited by the Stevens County Shoreline Master Program may not be authorized.

.04 In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area.

8.18 Administrative adjustment:

.01 The Administrator may grant adjustments to the dimensional requirements of this master program as they apply to the construction of an exempt single family residence and normal appurtenances (as defined in WAC 173-14-040(1)(g) thereto, provided, that the following conditions are met:

a. That the project is consistent with the applicable policies and regulations of this master program except for those specific regulations for which an adjustment is being requested; and,

b. That the application for adjustment set forth reasons which demonstrate that the proposed adjustment is necessary to assure equivalent treatment for the applicant in relation to other similarly situated uses in the vicinity; and,

c. That the administrative adjustment is the minimum necessary to address the justification given for proposing the adjustment.

.02 Prior to granting an adjustment pursuant to this section, notice of the application for administrative adjustment shall be given pursuant to section 8.10 of this master program, and all comments received as a result thereof shall be considered by the Administrator prior to making a decision.

.03 The decision of the Administrator shall be appealable pursuant to the provisions set forth in section 8.19.

8.19 Local appeals:

Any written decision made by the Administrator on any action pursuant to this master program may be appealed by the applicant, any private or public organization pursuant to Stevens County Code "Title 6" Local Project Review.

8.20 Department of ecology review of conditional use and variance permits:

After final approval of a conditional use or variance permit and exhaustion of any local administrative appeals, the Administrator shall submit the applicable permits to the Department of Ecology for approval, approval with conditions or denial. When the Department of Ecology intends to conditionally approve a conditional use or a variance permit, the DOE shall notify the director of its intention and the nature of the conditions prior to rendering its final decision. The DOE shall render and transmit to the Administrator and the applicant its final decision approving, approving

with conditions, or disapproving the permit within thirty days of the date of submittal by the Administrator pursuant to WAC 173-14-090. The Administrator shall notify those interested persons having requested notification pursuant to WAC 173-14-070 to the Department of Ecology's final decision.

8.21 Appeal to State Shoreline Hearings Board:

Any person aggrieved by the granting, denying, rescission or modification of an applicable Shoreline Permit may seek review from the State Shorelines Hearings Board by filing an original and one copy of request for the same with the Hearings Board within 30 days of receipt of the final decision by the Board of County Commissioners. Said request shall be in the form required by the rules for practice and procedure before the Hearings Board, the person seeking review shall file a copy of the request for review with the State Department of Ecology and the Attorney General. Hearing Board regulations are contained in Chapter 461-08 WAC.

CHAPTER 9: ENFORCEMENT

The following sections are taken verbatim from the Washington Administration Code in effect at the time of adoption of this Master Program and are provided for information purposes only.

9.01 General: (WAC 173-17)

Enforcement action by the department or local government may be taken whenever a person has violated any provision of the act or any master program or other regulation promulgated under the act. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement actions. [Statutory Authority: RCW 90.58.200. 87-16-101 (order DE 87-09), 173-17-030, filed 8/5/87.]

9.02 Order to cease and desist: (WAC 173-17-040)

Local government and/or the department shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of chapter 90.58 RCW or this master program.

.01 Content of order. The order shall set forth and contain:

- a. A description of the specific nature, extent, and time of violation and the damage or potential damage; and
- b. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under WAC 173-17-050 may be issued with the order.

.02 Effective date. The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

.03 Compliance. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to the issuance of a civil penalty. [Statutory Authority: RCW 90.58.200. 87-16-101 (order DE 87-09), 173-17-040, filed 8/5/87.]

9.03 Mandatory civil penalty: (WAC 173-17-050)

A person who fails to conform to the terms of a permit issued under RCW 90.58.140, who undertakes a development or use on shoreline of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty.

.01 **Amount of penalty:** The penalty shall not exceed one thousand (\$1000) dollars for each violation. Each day of violation shall constitute a separate violation.

.02 **Aiding or abetting:** Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

.03 **Notice of penalty:** A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department and/or the local government, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

.04 **Application for remission or mitigation:** Any person incurring a penalty may apply in writing within thirty days of receipt of the penalty to the department or local government for remission or mitigation of such penalty. Upon receipt of the application, the department or local government may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

.05 Any person who fails to pay the prescribed penalty as authorized in this section shall be subject to actions necessary to recover such penalty. (WAC173-17-060)

When a penalty is imposed jointly by the Department and local government, it may be remitted or mitigated only upon such terms as both the Department and the local government agree [Statutory Authority: RCW 90-.58.200. 87-16-1091 (Order DE 87-09), 173-17-050, filed 8/5/87.]

9.04 Appeal of civil penalty: (WAC 173-17-060)

.01 **Right of appeal.** Persons incurring a penalty imposed by the department or imposed jointly by the department and local government may appeal the same to the shorelines hearings board.

Appeals to the shorelines hearings board are contested cases subject to the provisions of chapter 34.04 RCW. Persons incurring a penalty imposed by local government may appeal the same to the local government legislative authority.

.02 **Timing of appeal.** Appeals shall be filed within thirty days of receipt of notice of penalty unless an application for remission or mitigation is made to the department or local government. If such application is made, appeals shall be filed within thirty days of receipt of local government's and/or the department's decision regarding the remission or mitigation.

.03 Penalties due.

a. Penalties imposed under this section shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after receipt of local government's and/or the department's decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceeding and upon the issuance of a final decision confirming the penalty in whole or in part.

b. If the amount of a penalty owed the Department is not paid within thirty days after it becomes due and payable, the Attorney General, upon request of the Department, shall bring an action in the name of the State of Washington to recover such penalty. The action shall be brought in Thurston County or in any county in which such violator may do business. If the amount of a penalty owed local government is not paid within thirty days after it becomes due and payable, local government may take actions necessary to recover such penalty.

.04 **Penalty recovered.** Penalties recovered by the Department shall be paid to the state treasurer. Penalties recovered by local government shall be paid to the local government treasury. Penalties recovered jointly by the department and local government shall be divided equally between the Department and the local government unless otherwise stipulated in the order. [Statutory Authority: RCW 90.58.200. 87-16-101 (Order DE 87-09), 173-17-060, filed 8/5/87.]

9.05 General criminal penalty. (RCW 90.58.220)(WAC 173-17-070)

In addition to incurring civil liability under Section 1., any person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of the Act or the Master Program shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than twenty-five (25) dollars nor more than one thousand (1000) dollars or by imprisonment in the county jail for not more than ninety (90) days for each separate offense, or by both such fine and imprisonment. Provided, that the fine for each separate offense for the third and all subsequent violations in any five-year period shall be not less than five hundred (\$500) dollars nor more than ten thousand (\$10,000) dollars.

9.06 Violator Liabilities - Damages, Attorney's Fees/Costs. (RCW 90.58.230).

Any person subject to the regulatory program of the Act or the Master Program who violates any provision thereof or permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to violation. The attorney general or local government shall bring suit for damages under this section on behalf of the state or local governments. Private persons shall have the right to bring suit for damages under this section on their own behalf and on the behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provisions to assure that restoration will be accomplished within reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

CHAPTER 10: MASTER PROGRAM REVIEW

This Master Program shall be periodically reviewed as required by law and adjustments made as are necessary. This review process shall be consistent with WAC 173-19 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public. (RCW 90.58.190)

10.01 Amendments to master program:

Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120, RCW 90.58.200 and WAC 173-19. Amendments or revisions to this program, as provided by law, do not become effective until approved by the Washington State Department of Ecology. Proposals for shoreline environment redesignations (ie, amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in Shoreline Environment Designation Criteria and the intent of the Act.

10.02 Relationship to other local regulations:

In the event provisions of this program conflict with other applicable. Stevens County policies and/or regulations, the more restrictive shall apply.

10.03 Severability:

If any provisions of this Master Program, or its application to any person or legal entity or parcel of land or circumstances, is held invalid, the remainder of the Master Program, or the application of the

provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

CHAPTER 11: DEFINITIONS

"Accessory Use" means any structure or use incidental and subordinate to a primary use or development.

"Accretion" means the growth of a beach by the addition of material transported by wind and/or water. Included are such shore forms as barrier beaches, points, spits, hooks, and tombolos.

"Act" means Shoreline Management Act of 1971, chapter 90.58 RCW.

"Adjudicated Water Mark" means a judicial determination of the Ordinary High Water Mark (i.e. Loon Lake).

"Administrator" means the Stevens County Planning Director and/or his/her designated representative.

"Appurtenance" means a structure necessarily connected to the use and enjoyment of a single-family residence and is located landward of the perimeter of a biological wetland. Normal appurtenances may include a garage; boat storage/moorage; deck; driveway; utilities; fences; and grading which does not exceed two hundred fifty cubic yards (except to construct a conventional drainfield).

"Board" means the Stevens County Board of County Commissioners.

"Boathouse" means any walled structure built for storage of watercraft or floatplanes.

"Bog" means a wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues, and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

"Bulkhead" means a solid or open pile wall erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from waves or current action.

"Covered Moorage" means a roofed, floating or fixed offshore structure without walls other than minimal structural framework needed to support the roof for moorage of watercraft or floatplanes.

"Department" means the Washington State Department of Ecology.

"Development" means a use, consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any state of water level.

"Director" means the Stevens County Planning Director.

"Exemption" Certain specific developments as listed in WAC 173-14-040 are exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the ACT and the Stevens County Master Program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit (RCW 90.58.030(3e); WAC 173-14-030(6) and -040).

"Emergency" means an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with the Shoreline Master Program.

"Feeder Bluff, Erosional Bluff" any bluff (or cliff) experiencing periodic erosion from waves, sliding or slumping, whose eroded earth, sand or gravel material is naturally transported (littoral

drift) via a drift-way to an accretion shore-form. These natural sources of beach material are limited and vital for the long term stability of drift-ways and accretion shore-forms.

"Floodplain" is synonymous with one hundred-year floodplain and means that land area susceptible to being inundated by stream derived waters with a one percent chance of being equaled or exceeded in any given year. The limits of this area are based on the Stevens County Floodplain Ordinance.

"Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover conditions. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. The limits of the floodway are based on the Stevens County Floodplain Ordinance.

"Habitat" means the place or type of site where a plant or animal naturally or normally lives and grows.

"HPA" Hydraulic Project Approval

"Hydric Soils" means, generally, soils which are, or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants.

"Hydrophytes" those plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

"Interested party" - Synonymous with "part of record", and means all persons who have notified local government of their desire to receive a copy of the final order on a permit under WAC 173-14-070 (WAC 173-14-030(12)).

"Liberal construction" - A legal concept instructing parties interpreting a statute to give an expansive meaning to terms and provisions within the statute. The goal of liberal construction is to give full effect in implementing a statutes requirements. See RCW 90.58.900.

"Marshes" mean soft, wet areas periodically or continuously flooded to a shallow depth, usually characterized by a particular subclass (monocotyledons) of grasses, cattails, and other low plants.

"Marshes, Bogs, and Swamps" - Lands transitional between terrestrial and aquatic systems where saturation with water is the dominant factor determining plant and animal communities and soil development. Such lands must have one or more of the following attributes: a) at least periodically, the land supports predominately hydrophytes; and/or b) the substrate is predominately undrained hydric soil (WAC 173-22-030(5)).

"Mitigation" - The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. See WAC 197-11-768

"Nonconforming development" - A shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conform to the applicable shoreline provisions (WAC 173-14-055(1)).

"Normal maintenance" means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

"Normal protective bulkhead" means the construction at or near the ordinary high water mark to protect a single family residence and is for protecting land from erosion, not for the purpose of creating land.

"Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total

replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment.

"Ordinary high-water mark" means the mark on all lakes and streams which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: Provided, that in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark shall be the line of mean high water.

"Permitted" means approved by or exempted from permitting by any agency with jurisdiction.

"Practical alternative" An alternative that is available and capable of being carried out after taking into consideration short-term and long-term cost, options of project scale and phasing, existing technology and logistics in light of overall project purposes. It may include an area not owned by the applicant that could reasonably have been or be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity.

"Public Access" - A right of entry that is available for use by any person.

"Public interest" - The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-14-030(14)).

"RCW" - Revised Code of Washington

"Revetment" - Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves of currents.

"Riparian" - Of, on, or pertaining to the banks of a river.

"Runoff" - Water that is not absorbed into the soil but rather flows along the surface following the topography.

"Sensitive Area" means any area which is naturally unsuitable or undesirable for intensive human use or structural development due to its relatively higher value to the region or community in its natural or present condition; such as but not limited to estuaries, marshes, swamps, bogs, accretion beaches, historic sites, and unique or scarce fish and wildlife habitats. (This is a term associated with this program and not as defined in RCW 43.21C, the State Environmental Policy Act (SEPA)).

"SEPA" State Environmental Policy Act - SEPA requires state agencies, local governments, and other lead agencies to consider environmental factors when making most permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs may be required to be prepared and public comments solicited.

"Setback" - A required open space, specified in the Stevens County Master Program, measured horizontally upland from and perpendicular to the ordinary high water mark or any associated biological wetlands.

"Shoreline Hearings Board" (SHB) - A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on Ecology approval of master programs, rules, regulations, guidelines or designations under SMA. See RCW 90.58.170; 90.58.180; and WAC 173-14-170; 173-14-174.

"Shoreline Permit" - A substantial development permit, conditional use permit, revision, or variance or any combination thereof (WAC 173-14-030(13)).

"Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

"Single-Family Residence" (SFR)- A detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

"SMA" - The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

"Soil bioengineering" - An applied science that combines structure, biological and ecological concepts to construct living structures that stabilize the soil to control erosion, sedimentation and flooding using live plant material as a main structural component.

"Statement of Exemption" - A written statement by the Administrator that a particular development proposal is exempt from the shoreline permit requirement and is consistent with this program and RCW 90.58.

"Storm Water" means surface water runoff collected and transported by a managed system.

"Substantial Development" means any development of which the total cost, or fair market value, exceeds \$2,500 or any development which materially interferes with normal public use of the water or shorelines of the state; except that the following shall not be considered substantial developments:

- (a) Normal maintenance or repair of existing structures or developments, including damage by fire, accident, or elements;
- (b) Construction of the normal protective bulkhead, common to single-family residence;
- (c) Emergency construction necessary to protect property from damage by the elements;
- (d) Construction of a barn or similar agricultural structure on shorelands;
- (e) Construction or modification of navigational aids, such as channel markers and anchor buoys;
- (f) Construction on shorelands by an owner, lessee, or contract purchaser, of a single-family residence, for his own use or for the use of his family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the state or local government having jurisdiction thereof.

"Swamp" means a depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.

"Undrained Hydric Soils" mean those soils which are wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants.

"Variance" is a means to grant relief from the specific bulk, dimensional or performance standards specified in the Shoreline Master Program. Variance permits must be approved, approved with conditions, or denied by the Washington State Department of Ecology.

"WAC" - Washington Administrative Code

"Water-Dependent" means a use or portion of a use which requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations, examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

"Water-Enjoyment" means a recreational use, or other use facilitating public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of the use and which through the location, design and operation assure the public's ability to enjoy the

physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use should be open to the general public and the shoreline space of the project must be devoted to provisions that accommodate shoreline enjoyment. Examples may include parks, piers, museums, restaurants, educational and/or scientific reserves, resorts, and mixed use projects.

"Water-Related" means a use or a portion of a use that is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a waterfront location. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

"Water- Oriented" means any use that is water-dependent, water-related, or water or a combination of such uses.

"Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands created from non-wetland sites, including, but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. Wetlands include artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands.(See section 4.05 for more information)

